

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Community Affairs Committee

BILL: SB 1380

INTRODUCER: Community Affairs

SUBJECT: Assessment of Residential Real Property

DATE: February 15, 2010

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Howes	Yeatman	CA	Favorable
2.			FT	
3.			GA	
4.			WPSC	
5.				
6.				

I. Summary:

This bill implements section 4(i), Article VII, of the State Constitution which prohibits a property appraiser from considering changes or improvements made for the purpose of improving the property's resistance to wind damage in determining the assessed value of residential property. The proposed bill specifies that the provision applies to new and existing construction. However, with respect to a new residential structure, this limit on assessments applies only to the extent that the changes or improvements exceed the requirements of the Florida Building Code or any applicable local building code.

This proposed bill creates 193.624, F.S.

II. Present Situation:

Background

Wind Resistance Incentives

The Florida Statutes do not provide incentives or special treatment for changes or improvement that improve a structure's ability to withstand hurricanes, but attempts to provide such incentives began in 1999, with the introduction of SJR 124, which would have authorized the Legislature to exempt, by general law, the value attributable to improvements made for purposes of disaster preparedness, and SB 122, which provided a statutory exemption for any increase in value which is attributable to the installation of shutters designed to protect the property against damage from hurricanes. Similar legislation was introduced in 2000 (SJR 138, HJR 1731), and 2007 (SB 158).

In November 2008, Florida voters approved a constitutional amendment proposed by the Florida Tax and Budget Reform Commission (TBRC).¹ The amendment added the following language to section 4, Article VII, of the State Constitution:

- (i) The legislature, by general law and subject to conditions specified therein, may prohibit consideration of the following in the determination of the assessed value of real property used for residential purposes:
- 1) Any change or improvement made for the purpose of improving the property's resistance to wind damage.
 - 2) The installation of a renewable energy source device.²

The amendment also repealed the Legislature's then-existing constitutional authority to grant an ad valorem tax exemption to a renewable energy source device and to real property on which such a device is installed and operated.

Property Tax Appraisal

Unless expressly preempted, section 4, Art. VII, of the State Constitution requires all property to be assessed at just valuation for the purposes of ad valorem taxation. Under Florida law, just valuation is synonymous with fair market value.³ Section 193.011, F.S., requires property appraisers to consider the following 8 factors in determining the property's just valuation:

(1) The present cash value of the property, which is the amount a willing purchaser would pay a willing seller, exclusive of reasonable fees and costs of purchase, in cash or the immediate equivalent thereof in a transaction at arm's length;

(2) The highest and best use to which the property can be expected to be put in the immediate future and the present use of the property, taking into consideration any applicable judicial limitation, local or state land use regulation, or historic preservation ordinance, and considering any moratorium imposed by executive order, law, ordinance, regulation, resolution, or proclamation adopted by any governmental body or agency or the Governor when the moratorium or judicial limitation prohibits or restricts the development or improvement of property as otherwise authorized by applicable law. The applicable governmental body or agency or the Governor shall notify the property appraiser in writing of any executive order, ordinance, regulation, resolution, or proclamation it adopts imposing any such limitation, regulation, or moratorium;

(3) The location of said property;

¹ The Florida Tax and Budget Reform Commission (TBRC) was created in 1988 when voters approved an amendment to the State Constitution to transfer the authority to review state and local taxation and budget issues from the Constitution Revision Commission to the TBRC. The TBRC is established every ten years with 11 members appointed by the Governor, none of whom may be a legislator at the time of appointment. The Commission is composed of seven members appointed by the Speaker of the House of Representatives, seven members appointed by the President of the Senate, and four non-voting, ex officio members all of whom must be state legislators at the time of appointment and must meet additional requirements. The 2007-2008 TBRC adopted the working waterfronts proposal as a CS for CP's 6, 8, & 34, Second Engrossed, and the proposal was Revision 6 on the ballot of the 2008 General Election.

² FLA. CONST. art. VII, s.4(i) (2008).

³ See *Walter v. Shuler*, 176 So.2d 81 (Fla.1965); *Deltona Corp. v. Bailey*, 336 So.2d 1163 (Fla.1976); *Southern Bell Tel. & Tel. Co. v. Dade County*, 275 So.2d 4 (Fla. 1973).

- (4) The quantity or size of said property;
- (5) The cost of said property and the present replacement value of any improvements thereon;
- (6) The condition of said property;
- (7) The income from said property; and
- (8) The net proceeds of the sale of the property, as received by the seller, after deduction of all of the usual and reasonable fees and costs of the sale, including the costs and expenses of financing, and allowance for unconventional or atypical terms of financing arrangements. When the net proceeds of the sale of any property are utilized, directly or indirectly, in the determination of just valuation of realty of the sold parcel or any other parcel under the provisions of this section, the property appraiser, for the purposes of such determination, shall exclude any portion of such net proceeds attributable to payments for household furnishings or other items of personal property.

III. Effect of Proposed Changes:

The proposed bill provides that in determining the assessed value of real property used for residential purposes, for both new and existing construction, the property appraiser may not consider the following changes or improvements made for the purpose of improving a property's resistance to wind damage, which include any of the following:

- Improving the strength of the roof deck attachment.
- Creating a secondary water barrier to prevent water intrusion.
- Installing hurricane-resistant shingles.
- Installing gable-end bracing.
- Reinforcing roof-to-wall connections.
- Installing storm shutters.
- Installing impact-resistant glazing.
- Installing hurricane-resistant doors.

The proposed bill defines "new residential structure" and "existing residential structure" and provides that for a new residential structure, the limit on assessments applies only to the extent that the changes or improvements exceed the requirements of the Florida Building Code or any applicable local building code.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

This bill will reduce the authority that counties or municipalities have to raise revenues in the aggregate. Since the enactment of a bill to implement this constitutional provision is at the discretion of the Legislature, the mandates provision under Section 18(b) of Art.

VII of the State Constitution would apply and the bill would have to be approved by a 2/3 vote of the membership of each house.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

The Revenue Estimating Conference has not determined the impact of this bill.

B. Private Sector Impact:

This proposed bill may encourage owners and builders of residential property to increase the property's wind resistance since such improvements will not increase the assessed value of the property.

C. Government Sector Impact:

The impact of this proposed bill on local governments is indeterminate, since potential revenue losses from non-consideration of wind resistance improvements for residential property will be offset to some extent by reduced costs of providing assistance to owners of wind-damaged property.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.